

MINUTES OF SPECIAL MEETING
SUGAR CITY COUNCIL
TUESDAY, FEBRUARY 15, 2022

Presiding: Mayor Adams

Meeting Via Internet and at City Hall Convened at 8:00 p.m.

Prayer: Councilwoman Nielsen

Pledge of Allegiance: Councilman Dayley

Present at City Hall and Online: Mayor Steven Adams; Councilors Joy M. Ball, Glenn Dayley, Connie Fogle and Catherine Nielsen; Clerk-Treasurer Wendy McLaughlin; City Building Inspector and P&Z Administrator Quinton Owens; Planning & Zoning Chairman Dave Thompson; City Engineer Dick Dyer; Community Development Specialist Kurt Hibbert; City Attorney Chase Hendricks; Property Owner Brent Barrus; Standard Journal Reporter Lisa Smith; Citizens Bruce King, and others who may have joined electronically but not identified.

8:00 p.m. Mayor Adams called the council meeting to order in the back conference room as Planning and Zoning's public hearing for annexation was still in session in the council chambers. The mayor recessed the council meeting until the findings from the public hearing were available.

9:35 p.m. The council meeting was reconvened in the council chambers and broadcast via internet. The council took time to review the findings. City Attorney Chase Hendricks, City Engineer Dick Dyer, P&Z Administrator Quinton Owens and Planning & Zoning Chairman Dave Thompson answered questions of the council. Items of concerns addressed are summarized below:

- Properties annexed were requested by property owners (Category A Annexation)
- Madison County letter requests –
 - Reschedule the public hearing for the 28-day notice requirement, and
 - Remove lands around the North Rexburg interchange until renegotiated as outlined in the signed Madison County Area Impact Governing Ordinance No. 365
- City of Rexburg's area of impact adjacent to the North Rexburg interchange
- Idaho Transportation Department (ITD) request for a Memorandum of Understanding (MOU) before moving forward

PLANNING & ZONING ANNEXATION FINDINGS:

MOTION: It was moved by Councilwoman Ball and seconded by Councilwoman Fogle to accept the Planning and Zoning Findings of Fact; motion carried (see Attachment #1).

MADISON COUNTY LETTER: See Attachment #2.

ANNEXATION ORDINANCE NO. 374_2022: The council approved Ordinance No. 374_2022 excluding the southwestern portion of RP06N40E07DT02 within Rexburg's area of

impact. The ordinance was introduced to the council and read by title only:

“AN ORDINANCE ANNEXING CERTAIN LANDS GENERALLY LOCATED AROUND THE PERIMETER OF THE CITY OF SUGAR CITY AND THE NORTH REXBURG INTERCHANGE OF US HIGHWAY 20, AND WHICH LIE CONTIGUOUS OR ADJACENT TO THE CITY LIMITS OF THE CITY OF SUGAR CITY, COUNTY OF MADISON, STATE OF IDAHO; AND THAT SAID LANDS BE ANNEXED TO THE CITY OF SUGAR CITY AND ZONING DESIGNATED HIGHWAY COMMERCIAL (C3) AND TRANSITIONAL AGRICULTURE 1 (TAG1) AND DECLARING THAT SAID LANDS, BY PROPER LEGAL DESCRIPTION AS DESCRIBED BELOW, BE A PART OF THE CITY OF SUGAR CITY, COUNTY OF MADISON, STATE OF IDAHO; REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS OR PARTS THEREOF IN CONFLICT HEREWITH; AND DIRECTING MADISON COUNTY GIS TO ADD SAID PROPERTIES TO THE OFFICIAL MAPS OF THE CITY OF SUGAR CITY, IDAHO; AND DIRECTING THE CLERK OF THE CITY OF SUGAR CITY TO FILE A CERTIFIED COPY OF THE ORDINANCE AND MAP OF THE AREAS TO BE ANNEXED WITH MADISON COUNTY RECORDER, AUDITOR, TREASURER AND ASSESSOR, AND THE STATE TAX COMMISSION OF THE STATE OF IDAHO, PURSUANT TO IDAHO CODE SECTION 50-223 AND SECTION 63-2215.”

It was moved by Councilwoman Nielsen and seconded by Councilwoman Fogle to waive reading of the ordinance on three different days and to place it upon its final passage. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilors Ball, Dayley, Fogle, and Nielsen
Those voting nay: None

Thereupon, the mayor declared that the motion, having been passed by not less than two-thirds of the council, had been duly carried. It was moved by Councilwoman Nielsen and seconded by Councilwoman Fogle to adopt this ordinance. Thereupon, the clerk called roll upon the motion.

Those voting aye: Councilors Ball, Dayley, Fogle, and Nielsen
Those voting nay: None

Ordinance No. 374_2022 was thereupon declared by the mayor to have been duly passed by not less than two-thirds of the council. The clerk will publish Ordinance No. 374_2022 in summary or full immediately in at least one issue of the *Standard Journal*, a newspaper published in the city of Rexburg, Madison County, Idaho.

Councilwoman Nielsen made a motion for adjournment with the council's recommendation. Meeting adjourned at 10:20 p.m.

Signed: _____
Steven Adams, Mayor

Attested: _____
Wendy McLaughlin, Clerk-Treasurer

FINDINGS OF FACT, CONCLUSIONS
AND RESOLUTION ADOPTED
BY THE
PLANNING AND ZONING COMMISSION
OF THE
CITY OF SUGAR CITY
FEBRUARY 15, 2022

FINDINGS AND CONCLUSIONS

A special meeting of the Planning and Zoning Commission of the City of Sugar City was held on February 15, 2022, after a public hearing on the requests for annexation and zone designations of the involved properties noted herein. Each private property owner has given consent to the annexation. A staff report was provided to the commission. During the public hearing, testimony was heard and evaluated by the Commission.

Properties requested for annexation into Sugar City include the following parcels as recorded with Madison County and shown on attachment A: **RP06N40E033000, RP06N40E080004, RP06N40E090362, RPSUGCA0087243, RP06N40E08DT02, RP06N40E08DT01, RP06N40E07DT02, RP06N40E07DT03, RP06N40E07DT04, RP06N40E082401, RP06N40E082834, RP06N40E071813, RP06N40E070525**

Staff Reports:

Chase Hendricks City Attorney explained the Idaho Code Process for a Category A Annexation as per Idaho Code 50-222. Sugar City received a letter, dated February 7th, 2022 from the County outlining some concerns over this upcoming annexation of property North of Hwy 20 and the Salem Hwy. (2nd E.) The letter references in paragraph 1 (Idaho Code 50-222(5)(b)(iv)) is the procedure for annexation of Category B annexations. Not Category A. Category A's have a different procedure and laid out in 5(a). Idaho Code 50-222(5)(a) states that for category A annexations a city must follow 67-6509, which is what the City did in the process of doing. Hendricks explained Category A annexations under Idaho Code makes it clear that the consenting parcels are not required to be in the area of impact if it's in that City's comprehensive plan.

Addressing the issues Paragraph 2, I am concerned about the legality of a few of those provisions that are in direct conflict with Idaho Code. Annexations and their procedures are completely the realm of state Code and the Cities and the County can't make a special ordinances to make that different. This is a long held legal principle called the Preemption Doctrine. Under article XII, section 2 of the Idaho Constitution, "[a]ny county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in

conflict with its charter or with the general laws.”

Additionally it is of some concern that not following State Code and not allowing someone to voluntarily be annexed into a City when they want to would be a regulatory takings, even temporarily. Ultimately the City Council will have to decide to honor that County Ordinance or not for this annexation during their scheduled meeting.

The County letter identified RP06N40E07DT02 as currently within Rexburg’s Area of City Impact. That is not an issue and City of Sugar will not pursue that southwestern portion land between Hwy 20 and the Northbound off ramp.

Dick Dyer City Engineer: Today’s proposal is consistent with planning for the Salem area that has been conducted in the area for the last 20 years. Dick did a comprehensive Build Out Study in 2005 detailing plans for the Salem area for roads, sewer, water and other infrastructure. Additionally, he presented a letter from the University that acted as a mediator between Rexburg and Sugar City. Mr. Dyer referenced several figures in the 2005 Build Out Study, particularly Figures 1 “Study Area”, Figure 3 “Sewer Facilities”, Figure 6 “Water Facilities”. Mr. Dyer put forth these items of record to show this area has been planned for a long time.

Written Testimonies submitted according to the notice were read at the hearing. Others testifying in person

For annexation: Several individuals whose names and address were recorded and read into the record testified in favor of these annexations. Residents of Salem have been meeting together for several years to have Sugar City and Salem to grow together. Over 150 signature Petitions have been signed by individuals in Salem to not go into the City of Rexburg. Salem believes it can grow to together with Sugar City. There are concerns about the City of Rexburg swallowing up Salem and the community of Salem would lose its distinctive heritage and identity. An individual said she was new to the area and they have been looking for commercial land in the area North of Hwy 20 and that those commercial opportunities would be great for the school district and tax base of Sugar City and its absolutely needed in that area. There are concerns that have been discussed through the grapevine that this area would be residential. Commercial opportunities absolutely need to be developed for Sugar City.

Neutral: Several individuals, whose names and addresses were read into the record testified in the Neutral position. There was discussion about Category A annexations being the easy ones. Category B and C are more difficult and we need

to develop a good plan for those properties on how to properly plan for those areas. City of Rexburg testified that they don't argue against anyone that wants to be part of the City. He explained that the City of Sugar City needs to understand the agreements that exist between the Cities in relationship to sewer and water. Other individuals testified they are concerned about certain developments that come into this particular area, such as concrete batch plants. There were certain concerns about as Sugar City grows that we focus on the comprehensive plan objectives of safe and healthy neighborhoods and beneficial businesses. There was a question about where taxes go.

Against annexation: One individual, whose names and address were read into the record testified in the Against position who was against the annexation and his letter was read into the record. He objected to the growth of the area.

Rebuttal: It was explained by staff that as areas are added to the City that particular City's levy rate will be added to their tax bill. Those Levy rates are identified in the Annexation Plan that is the Packets.

Additionally, the City Attorney explained that water shall be provided as per Idaho Code and the Build Out Study conducted in 2005. Furthermore, there exists an agreement between the City of Sugar, Teton, and the City of Rexburg to treat the sewer of these communities. Dick Dyer explained that Sugar City has to purchase the capacity in the plant under the agreement and currently the city has rights to capacity it is currently not using. City Attorney explained that how the Agreement reads currently only the Moody Trunk line is available to Sugar City to deliver the sewage to the Rexburg Plant and that the 2nd East line is completely owned by the City of Rexburg which Sugar, under the current terms of the agreement, don't have right's too.

Based on the testimony, documents, relevant ordinances, and evidence presented, the Commission finds as follows:

Findings and Conclusions:

1. A public hearing was scheduled and held on February 15, 2022, wherein public testimony was taken and evaluated by the Commission.
2. The annexation is a Category "A" annexation. All private landowners have requested and consented to the annexation. Therefore, each of the lands described herein are proper for annexation.
3. The subject properties all meet the requirements of a category "A" annexation under

Idaho Code §50-222, 3(a)(i). Areas outside of the impact area are allowed by this code where all landowners have requested consented and the land is contiguous to the city and included in the comprehensive plan (see attachment B). As such those Consent agreements shall be recorded as per State Code in the Official records of the County.

4. Based on written Annexation Plan as part of the record the objectives of 50-222(5)(b)(iii)(A)-(E) have been met.

5. Proper notice was given pursuant to Idaho Code §50-222, 5(a) for category A annexation.

6. A portion of State Highway 20 lies between and/or adjacent to properties consenting to annexation and as such are included in this annexation according to Idaho Code 50-222, 2, which states “all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation.”

7. The section of Highway 20 parcel on the west side of the Salem Highway and adjacent to the north Rexburg city boundary shows on GIS about half of the parcel as being part of the Rexburg area of impact.

8. An issue was raised about a 28-day notice requirement in Idaho Code 50-222, 5(b). However, this code section was in reference to category B annexations, not category A.

9. Another issue was brought up regarding Madison County Code 105-8 requiring cities to renegotiate impact area before they can annex outside their current impact area. This code is preempted by state statute allowing annexation outside of impact areas under a category A annexation.

10. The proposed zone designation for the properties under the City of Sugar City system will remain as agricultural use but designated as Transitional Agricultural under Sugar City Code. Two exceptions are parcel RPSUGCA0087243, owned by Gary Jeppesen will be Community Commercial and RP06N40E071813 and RP06N40E070525 owned by Burns Holding will be Highway Commercial. Those properties will maintain those zones until such time as a request is made for a zone change.

11. The proposed annexations and zone designations comply with and support the goals and objectives of the Sugar City Comprehensive Plan.

12. The land to be annexed meets the applicable requirements of Idaho Code §50-222 and does not fall within the exceptions or conditional exceptions contained in §50-222.

13. The annexations are reasonably necessary for the orderly development of the City and will provide economically viable provision of tax supported municipal services to enable the orderly development of the private lands.

14. The annexations will allow efficient development of the properties and equitably allocate the costs of public services in those areas.

15. Adequate water and sewer services are available for the properties as indicated in the Annexation Plan and the 2005 Build Out Study presented by Staff Engineer.

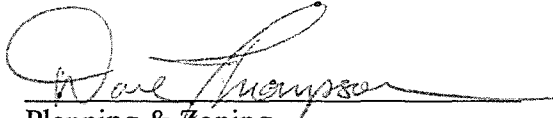
RESOLUTION AND CONCLUSIONS

UPON MOTIONS DULY MADE, SECONDED AND CARRIED,

IT WAS RESOLVED THAT:

The Commission concludes that as all private landowners have consented to the annexation, the proposed annexations fit within a Category "A" annexation and, therefore, recommends that the City Council approve the annexation of the property and that the zoning of the annexed properties be designated as set forth above. That a Memorandum of Understanding be developed with Idaho Transportation Department for ITD to continue maintenance of the interchange. That the lower southwest quadrant of the Hwy 20 and Salem Hwy interchange not be annexed into the City as that area is currently under the Area of Impact of the City of Rexburg.

These findings of fact, conclusions, and resolution formally were adopted unanimously by the Planning and Zoning Commission on February 15, 2022.


Planning & Zoning
City of Sugar City, Idaho

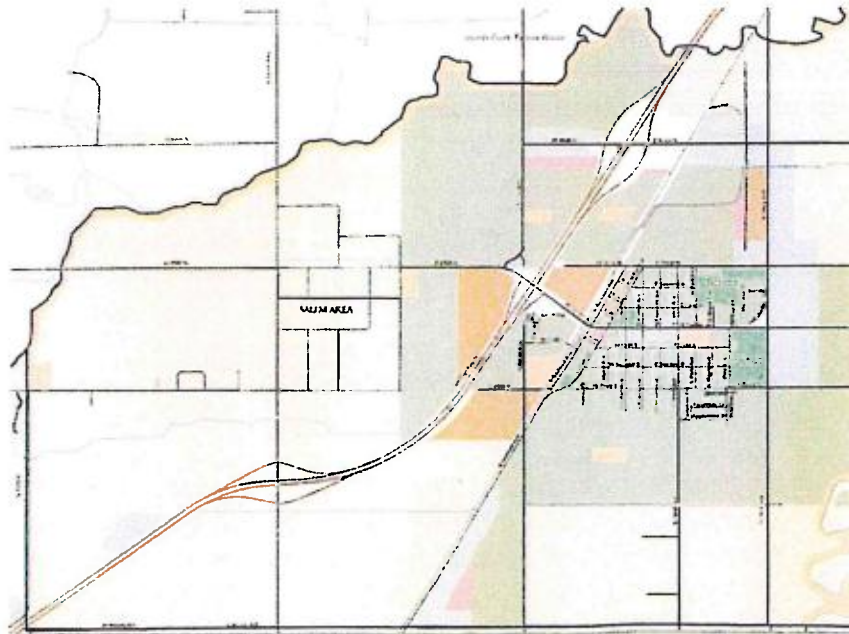
Attachment A



Attachment B

Revised Map 4-28-2005

Appendix A. Comprehensive Plan Map



Agriculture

Single Family Residential

Multi-Family Residential

Commercial
Manufacturing

Public Facilities
Open Space

PLANNING & ZONING DEPARTMENT

134 E Main Suite 208 Rexburg ID 83440

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February 7, 2022

Mayor and Sugar City Council
Sugar City Hall
P.O. Box 56
Sugar City, ID 83448

Re: Sugar City Annexation Proposal.

Dear Mayor and Sugar City Council:

We appreciate the opportunity to comment regarding the proposed annexation of various properties around Sugar City, as was noticed to the County on February 2, 2022. Myself and the Madison County Commissioners discussed this today, and offer the following comments:

1. It appears Sugar City failed to meet the required 28 day noticing requirement for a public hearing to consider annexation. Madison County requests Sugar City delay any decision until a public hearing can be held in compliance with the noticing requirements of State Statute. The code section we believe applies is Idaho Code 50-222(5)(b)(iv), which states as follows:

Compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in section 67- 6511, Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied thereto; provided however, **the initial notice of public hearing** concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every property owner with lands included in such annexation proposal **not less than twenty-eight (28) days prior to the initial public hearing . . .** (emphasis added twice).

2. The map provided in the notice identifies the parcels to be annexed into Sugar City. The three most easterly parcels appear to be within the Sugar City Area of City Impact. However, those parcels generally located around the Highway 20 and N 2nd East (Salem Highway) are not within the Sugar City Area of City Impact.

Madison County Code 105-8 outlines the process of annexation in the County. Additionally, GIS records show that the portion of the parcel identified as RP06N40E07DT02 (owned by Idaho Transportation Department) on the south side of Highway 20 and west of N 2nd E (Salem Highway) is within the Rexburg Area of City Impact, which may not be eligible for annexation into Sugar City. Annexing land not within an area of impact is not in compliance with this section of Madison County Code.

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Madison County Code, Sec. 105-8 Annexation states as follows:

(a) Adhering to the standards and guidelines in sections 105-5 and 105-6, the local governments agree to the following process for expansion or realignment of areas of city impact:

1. The local governments agree to follow the requirements and procedures for annexation recorded in Idaho Code, §§ 50-222, 67-6525, and 67-6526.
2. Idaho Code, § 67-6526, states that, "Subject to the provisions of section 50-222, an area of city impact must be established before a city may annex adjacent territory."

(b) **All affected municipalities shall limit their annexation to those lands within their areas of city impact.** If a municipality wishes to annex lands outside of its area of city impact, it shall renegotiate its area of city impact boundary with the county in accordance with Idaho Code, § 67-6526(d) and the procedures outlined in this agreement. The local governments agree to renegotiate area of city impact boundaries for all annexations, including category A annexations as described in Idaho Code, § 50-222. (Emphasis added).

3. Madison County requests that any action towards annexation of the lands around the Highway 20 interchange that are not currently within the negotiated Sugar City Area of City Impact be delayed until the Area of City Impact Agreement can be renegotiated as outlined in Madison County Code 105-7.

4. At this point in time, Madison County is neither in favor or opposed to the annexation of lands into Sugar City limits within the County. However, the County holds the opinion that if lands are to be annexed, that Cities comply with all aspects of State Statute and County Code that govern such matters. Therefore, we respectfully request that Sugar City:

a. Reschedule the public hearing until the mandated 28 days' notice requirement can be met; and,

b. Remove lands around the Highway 20 interchange from the proposal until an area of city impact agreement can be renegotiated as outlined in Madison County Code. The County has no issues with the other properties being considered.

Please do not hesitate to contact me with any questions or concerns.

A handwritten signature in black ink, appearing to read "Gary Armstrong", is written over a horizontal line.

Gary Armstrong

Madison County Planning Administrator